

Caswell County Board of Adjustments
March 15, 2022

Members Present:

Tim Yarbrough, John Claggett, Nikki Turner (remote), Ray Shaffner (remote), Planning Director Matthew Hoagland, Development Services Coordinator Amy Lyle.

Members Absent:

Stephen Barmann

Called to Order

Chairman Tim Yarbrough called the meeting to order at 2:07 p.m.

Approval of September 7, 2021 Meeting Minutes

Mr. Claggett made a motion to approve the February 2022 Board of Adjustments minutes. The motion carried unanimously.

New Business

Bennington Variance Petition

Kenneth Bennington, Real Estate Agent Emily Russell, and Caswell County Chief Building Inspector Ken Caison were present at the meeting. Mr. Bennington is requesting a variance for his property at 2497 Walters Mill Road, Providence, NC. Mr. Yarbrough swore in Mr. Bennington, Mr. Caison, and Mr. Hoagland.

Mr. Hoagland read the following memo aloud: "Property owner Kenneth Bennington is requesting a variance from the provisions of Section 9.45.1.1 of the Unified Development Ordinance which requires, among other things, that an exempt recombination plat meet the minimum lot size standard for properties of this type as defined in Section 9.56.19.3.1.5. The applicant's property line currently runs through the carport attached to the northwestern side of his residence. The applicant is seeking to expand the property line so that it no longer encroaches upon the carport. However, this expansion would continue to result in a lot that is less than one acre and, as a result, would not meet the minimum standard of the ordinance. Therefore, the applicant is requesting a variance from the minimum lot size standard so that the recombination plat can be approved and recorded. The standards for granting a variance are found in Section 4.2.2. of the U.D.O. Pursuant to Section 4.2.8., a four-fifths vote is necessary to grant a variance. At this time, Mr. Chairman, I would like to enter all documents related to the variance into the public record unless there is an objection. In particular, I will note that if there is an objection to entering the emails and documents related to the property's 2015 structure fire and recent Building Inspections permitting then the time to make such an objection would be now." There were no objections. "I would also like to note that a hearing notice sign was placed at the property and letters notifying adjoining property owners of the hearing were mailed in a timely manner to satisfy statutory requirements. Finally, for the board's consideration I will read Section 4.2.2. of the UDO which outlines the criteria necessary for granting a variance." Mr. Hoagland read section 4.2.2 of the UDO aloud. "With that I'm happy to answer any questions the board may have before you hear from the applicant."

Mr. Claggett asked if the property was at one time more than an acre. Mr. Bennington stated that it was. He stated that he was in a rent to own agreement with the property, and before he bought

it the previous owners made part of the property to create an acre for their property, leaving him with a little less. Mr. Claggett stated that he understood that there was a structure fire in January 2015. Mr. Bennington confirmed that was correct. Mr. Claggett asked if the property was purchased into his name in February 2015. Mr. Bennington confirmed. Mr. Claggett asked if the property was 0.63 of an acre when he purchased the property. Mr. Bennington stated that was correct. Mr. Claggett asked if he rebuilt the house. Mr. Bennington stated that yes he did. Mr. Claggett stated that he could see that there were not any inspections. Mr. Bennington stated that he used what he could of the house, gutted & redone everything, and when he added the carport, he & Mr. Strader, the other property owner, both agreed that they were good on the property line. He stated that this was the whole point of the variance, he would need to get an inspection. He stated that he contacted Mr. Caison to get the permit, and when Mr. Caison checked GIS, the carport was over the property line. Mr. Bennington stated that he had the property surveyed and it showed that the carport was over the property line. He stated that he needed the variance to get the property legally in his name and to keep the carport from encroaching on Mr. Strader's property, to get the home inspected and to sell the home. He stated that he may have gone about things the wrong way, but at that time he was not planning to move. Now, he has a buyer for the home.

Mr. Yarbrough asked if his intention was to sell the home. Mr. Bennington stated yes, he already has a buyer for the home if he can get everything corrected. Mr. Yarbrough asked if the buyer was requiring an inspection. Mr. Bennington stated that they were not, but he was sure the loan agency would require it, and he wanted to correct the encroachment. He stated that he had a letter signed by Mr. Strader stating that he was in agreeance with the property line. Mr. Claggett asked if he could see the letter.

Mr. Hoagland stated that on the application submitted, Ms. Russell wrote for the reason for seeking the variance was because the buyers cannot secure financing with the current encroachment. Mr. Claggett asked if he thought that prior inspections could have kept him from being here. Mr. Bennington stated absolutely, he understood where he went wrong, and he just wanted to make it right. Mr. Yarbrough asked if the carport was an addition after the fire. Mr. Bennington stated that was right.

Mr. Yarbrough asked if anyone had any more questions. Mr. Shaffner then asked if the other property owner, Mr. Strader, was present at the meeting. Mr. Yarbrough stated no. Mr. Shaffner asked if the letter that Mr. Benning submitted was notarized. Mr. Bennington stated that it was not. Mr. Shaffner wanted to confirm if the carport was over the property line and not just encroaching. Mr. Bennington stated that was correct, and that he was getting .035 of an acre from Mr. Strader. Mr. Shaffner asked if Mr. Bennington was purchasing the land for the variance. Mr. Bennington stated yes. Ms. Turner asked how much land Mr. Bennington would have once he purchased the part for the variance. Mr. Bennington stated that he would have 0.662 acres. Mr. Yarbrough asked if Mr. Strader was the property owner that Mr. Bennington was in the leasing to buy agreement with. Mr. Bennington stated that no, that was with the other property owners, the Megginsons.

Mr. Yarbrough then noted that Ms. Russell had joined the meeting and asked if she planned to give any testimony. He then swore her in for the hearing.

Mr. Yarbrough asked Mr. Hoagland if the Board was being asked to grant a variance for a recombination. Mr. Hoagland stated that was correct, and specifically the requirement that the property be at least one acre.

Mr. Shaffner asked if the property for the variance had been purchased yet. Mr. Bennington stated that it had not. Mr. Shaffner stated that the only thing that was presented for the agreement for the purchase of the land was the signed letter, and it was not notarized, and Mr. Strader was not present for the meeting. Mr. Bennington stated that's correct. Ms. Turner asked if the property was purchased from someone else, and was the portion grandfathered in since the lot is not an acre. Mr. Hoagland stated that he was not sure when the lot was created but that the ordinances and statutes typically still allow a non-conforming lot to be developed. However, in developing non-conforming lots, like those less than one acre, you cannot simultaneously create new non-conformities. And a garage like this, for instance, would be a new non-conformity. Mr. Bennington added that when he was leasing the property, it was an acre, but when he bought it in 2013, it had been cut and sold.

Mr. Claggett made a motion to deny the variance based on the one of the points of criteria, that a hardship must not be self-created. Mr. Yarbrough took a roll call vote: Turner, yes; Shaffner, yes; Claggett, yes; Yarbrough, no. The motion to deny the variance carried with a vote of three to one.

Mr. Hoagland notified Mr. Bennington that he will receive a written summary of today's decision and if he wishes to appeal today's decision then he has the right to do so in Superior Court.

Adjournment

Mr. Shaffner made a motion to adjourn the March 15, 2022 Board of Adjustments Meeting. The roll call vote was: Turner, yes; Shaffner, yes; Claggett, yes; Yarbrough, yes. Meeting adjourned.

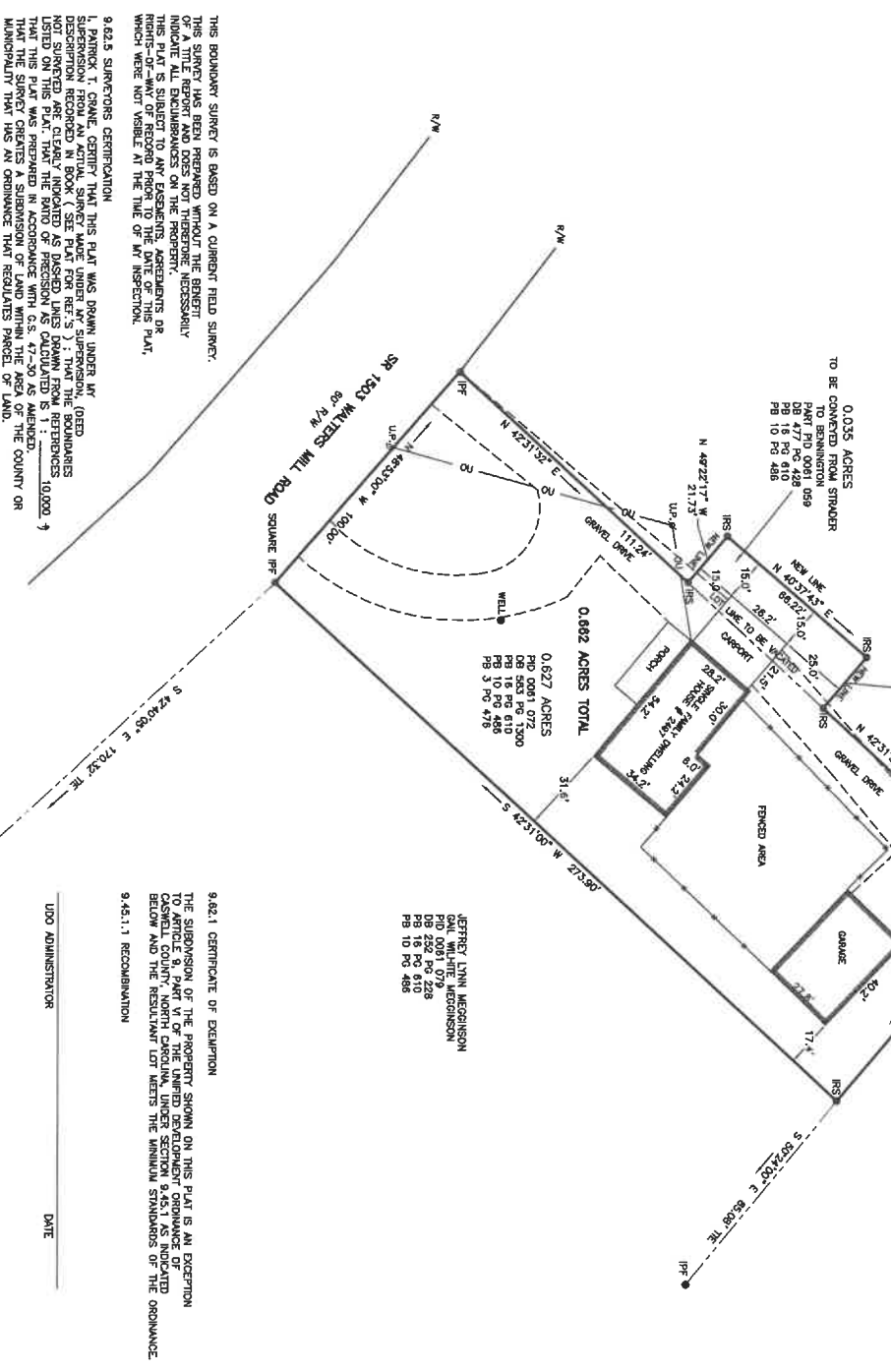
9.56.19.3.4 BUILDING SETBACK LINES
 LOTS ARE SUBJECT TO BUILDING SETBACK LINES AS DEFINED BY THE
 CASWELL COUNTY UNITED DEVELOPMENT ORDINANCE.
 DISTANCE FROM ROW = 50'
 DISTANCE FROM SIDE PROPERTY LINE = 15'
 DISTANCE FROM REAR PROPERTY LINE = 25'

9.62.12 REVIEW OFFICER'S CERTIFICATE

STATE OF NORTH CAROLINA
 COUNTY OF CASWELL

REVIEW OFFICER OF CASWELL COUNTY,
 I, KENNY STRIDER, DO HEREBY CERTIFY THAT THE MAP OR PLAN TO WHICH THIS CERTIFICATION IS AFFIXED
 MEETS ALL STATUTORY REQUIREMENTS FOR RECORDATION.

REVIEW OFFICER
 DATE
 K. KENNY STRIDER
 REVIEWER PID 0081 059
 DB 16 PG 610
 PB 10 PG 486



WITNESS MY ORIGINAL SIGNATURE, LICENSE NO., AND SEAL.

THIS DAY OF

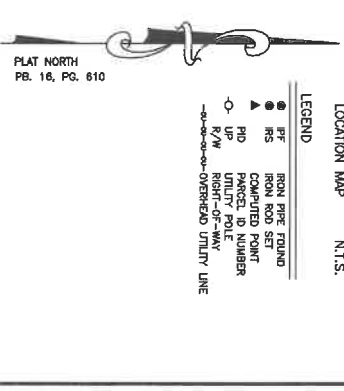
SIGNATURE LICENSE NUMBER

NOTES:
 NO GEODETIC MONUMENTS WERE FOUND WITHIN 2000' OF THE SUBJECT PROPERTY.
 ALL AREAS COMPUTED BY COORDINATE COMPUTATION.

CURRENT OWNER:
 KENNETH WAYNE BENNINGTON
 2467 WALTERS MILL ROAD
 PROVIDENCE, NC 27315
 PHONE: 434-770-0915
 DB 963, PG 1300
 PB 10, PG 810

JEFFREY LYNN MCGONSON
 DB 0081 079
 DB 16 PG 610
 PB 10 PG 486

9.42.1 CERTIFICATE OF EXEMPTION
 THE SUBDIVISION OF THE PROPERTY SHOWN ON THIS PLAT IS AN EXCEPTION
 TO THE REQUIREMENTS OF THE CASWELL COUNTY UNITED DEVELOPMENT
 ORDINANCE, SECTION 9.42.1 AS INDICATED
 BELOW AND THE RESULTANT LOT MEETS THE MINIMUM STANDARDS OF THE ORDINANCE.
 9.42.1.1 RECOMBINATION
 UDO ADMINISTRATOR
 DATE



CASWELL COUNTY NORTH CAROLINA
 SITUATED IN
 DAN RIVER TOWNSHIP
 BEING PID : 0081 079 &
 PART PID : 0081 072
 PLAT OF RECOMBINATION SURVEY
 FOR :
 KENNETH WAYNE BENNINGTON
 DATE : JANUARY 21, 2022

CRANE SURVEYING, PLLC
 113 TALBOTT DRIVE
 DANVILLE, VA 24540
 (434) 250-9713
 crane@cranesurveying.com



CASWELL COUNTY
911 COMMUNICATIONS CENTER
314 North Ave Yanceyville, NC 27379
Mail: P.O. Box 248 Yanceyville, NC 27379
336-694-2555

Audio Recording & Computer Dispatch Record Request

What information are you requesting?	CAD Report
Incident Date	01/18/2015
Time of Incident	06:14
Location of Incident	2497 Walters Mill Road Providence
Incident Description	Structure Fire

Agency & Person Requesting Information	Mr. John Claggett
Agency Address	N/A
Agency Contact Information Phone Number & Email	Caswell County Board of Adjustment
Signature	

Date of Release

Time

Employee Signature



Permit #: 3310

Permit Date: 01/06/22

Permit Type:

Permit Type: Building

Old Permit Number:

Property Owner Name: Kenneth Wayne Bennington

Mailing Address: 2497 Walters Mill Road, Providence NC 27315

Project Street Address: 2497 Walters Mill Road, Providence NC 27315

Phone Number: 434-770-0915

Email: dodgin2_72@yahoo.com

Developer Name (if different):

Developer Contact Information:

Number of Buildings on

Property:

Number of Manufactured Homes
on Property: 0

Utility Provider: Duke - Reidsville

Directions to Project:

Type of Work: Residential-Renovation

Description of work if Other: Repairs , renovations and additions to existing home after a fire. No
Permits or inspections were done.

Year (Mobile Homes): 0

Basement: No

Decks: No

Porches: Yes

Garage: No

Fireplace: n/a

Saw Service Pole: No

Bedrooms: 2

Baths: 1

Other Rooms: 0

Square Footage: 1680

Stories: 1

Height of Proposed Structure: 0

Central Air: Yes

Type of HVAC: Electric

Electrical System: 240V 200A

Project Cost: 0
Proposed Use of Structure: SFD
Parcel Size (Acres): 0.00
Zoning:
Watershed:
Agricultural Preservation District:
Major Subdivision:
Floodplain:
Status: Pending
Assigned To: Ken Caison

Property

Parcel #	Address	Legal Description	Owner Name	Owner Phone	Zoning
0061 072	2497 WALTERS MILL RD		KENNETH WAYNE BENNINGTON		

Contractors

Contractor	Primary Contact	Phone	Address	Contractor Type	License	License #
Self	self - MECHANICAL			Mechanical	self	none
Self	self - ELECTRICAL			Electrical	self	none
Self	self			Building	self	none
Self	self - PLUMBING			Plumbing	self	none

Fees

Fee	Description	Notes	Amount
Residential Renovations/Repairs - Building Costs			\$675.00
Building - Working Without Permits	Double Permit Fee - Working Without Permits	No permit, no inspections double fe	\$675.00
	Total		\$1,350.00

Notes

Date	Note	Created By:
01/13/2022	permit canceled, \$1000 cash refunded & credit card refunded \$350.	Amy Lyle

Uploaded Files

Date	File Name
01/13/2022	10500138-SKM_C360i22011310420.pdf
01/12/2022	10494117-SKM_C360i22011214360.pdf
01/07/2022	10427503-SKM_C360i22010713150.pdf



CASWELL COUNTY PLANNING DEPARTMENT

144 Main Street, Yanceyville, NC 27379 Office: 336-694-9731 | Fax: 336-694-5547 | Email: mhogland@caswellcountync.gov

VARIANCE PETITION APPLICATION

FEE: \$150

Property Owner Name: Kenneth Wayne Bennington
Mailing Address: 2497 Walters Mill Rd. Providence, NC 27315
Property Address: same as above
Telephone Number: 434-770-0915 Email Address: dodgin72@yahoo.com
Tax Map & Parcel Number: 2061 072
Description of Current Development and Use on Property: current use is residential

Please list below the Article(s) and Section(s) of the Unified Development Ordinance you're seeking a variance from and include a brief description.

Owner is seeking a variance from 9.56.19.3.1.5 and 9.45.1.1 of the UDO. Existing home has a 5ft encroachment of the carport onto the adjoining property. Owner would like to add 20 ft. to property line to remedy encroachment. Property is currently listed for sale with Emily Russell at Keller Williams Realty and prospective buyers cannot secure financing with the existing encroachment.

OFFICIAL USE ONLY

Date Received: 24 February 2022

Notes: Variance request planned for hearing during March 15 Board of Adjustment meeting. Additional info re: Building Permits and 2015 structure fire were requested prior to the hearing and presented to board members, property owner, and applicant on March 7th and March 9th respectively.

Action: Board denied variance request by vote of 3 Against, 1 For during March 15th meeting.

William H. Hogland
UDO Administrator

15 March 2022
Date